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Before the

FEDERAL COMMUNICATIONS COMMISSION

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In the matter of)

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Implementation of the)
Pay Telephone Reclassification)
and Compensation Provisions of the)
Telecommunications Act of 1996)

CC Docket No. 96-128 FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

**Comments of the South Carolina
Public Communications Association to
June 6, 1996 Notice of Proposed Rule Making**

I. Introduction

The Federal Communications Commission (the Commission) issued this Notice of Proposed Rulemaking (the NPRM) as a result of the Telecommunications Act of 1996 (the 1996 Act). The purpose of this proposed rulemaking is to promulgate new rules governing the payphone industry primarily in response to Section 276 of the 1996 Act.

The SCPCA is an association whose members include independent public payphone service providers (IPPs), operator service providers, long-distance carriers and other telecommunications-related companies operating in South Carolina. The SCPCA's primary purpose is to assist its members in the responsible provision of payphone services in South Carolina. The SCPCA serves as an advocate for the payphone industry and engages in self-regulatory activities to help insure the responsible provision of payphone services to South Carolina citizens.

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II. Summary of Comments

The SCPCA encourages the Commission to set a nationwide local coin rate of 40¢ for all calls originated from payphones. This action is particularly necessary in South Carolina. Here, payphones in certain locations throughout the state, such as on city sidewalks, are limited to a local coin rate of 10¢.

In 1993, the South Carolina Public Service Commission (S.C. Commission) found that it was in the public interest for interexchange carriers to pay intrastate dial-around compensation to IPPs. The S.C. Commission followed the Commission in requiring payment of a per-line monthly compensation amount until per-call compensation became technically feasible. In doing so, the S.C. Commission declined to rule upon whether IXC's should pay compensation for both access code calls and subscriber 800 calls. IPPs urgently need for the Commission to require IXC's to pay per-call compensation on all dial-around calls, both interstate and intrastate. This should include compensation for all access code calls and 800 subscriber calls placed from IPP payphones.

The Commission should begin to treat LEC payphones as detariffed CPE. Consistent with that treatment, it should require that LECs transfer their payphone assets from regulated to unregulated activities. Probably the most significant of these assets are the location contracts that the LECs currently hold. The LECs must assign these contracts to their newly created payphone entities. The Commission should attribute these assets to these LEC payphone entities at their full present value.

South Carolina's rules currently require IPPs to route local and intraLATA 0+ and 0-calls to the incumbent LEC. In implementing Section 276(b)(1)(E) of the 1996 Act, the Commission must clearly rule that IPPs and location providers may select the intraLATA operator service provider even if an existing state restriction prohibits this selection. With the advent of local competition, the Commission should also extend this right to allow the selection of local operator service providers.

Twenty-six local exchange companies provide local telephone services in South Carolina.¹ At least twenty-three of the LECs qualify as Rural Telephone Companies under the 1996 Act. In South Carolina it is essential that all rules implementing the payphone provisions of the 1996 Act apply not only to BellSouth, South Carolina's regional Bell Operating Company (RBOC), but also to all independent LECs. This would include those LECs who meet the statutory definition of a Rural Telephone Company.

III. Discussion

A. The Commission Should Set a Nationwide Local Coin Rate of 40¢.

In section III.A.2. a. of this NPRM, the Commission sought comments on the specific public benefits that would result from a nationwide local coin rate, why local rates are inadequate to ensure fair compensation, and the impacts of variations in the local coin sent-paid rate on IPPs and the public.

¹BellSouth, GTE South, Inc. and United Telephone Company of the Carolinas are the only LECs offering service in South Carolina that do not qualify as Rural Telephone Companies.

South Carolina allows IPPs to charge a measured local coin rate of 25¢ for each four minutes of calling. This rate is subject to an exception which limits the charge to a flat 10¢ rate in certain areas. This 10¢ limitation applies to payphones located on city sidewalks, in mobile home parks, in or within one block of low income housing projects, in non-profit hospitals, nursing homes, elementary or secondary schools, and correctional institutions.

The purpose of this 10¢ limitation is noble - to insure that inexpensive coin calling is provided to those who are economically less fortunate. However, the effect is exactly the opposite. Many people in low income areas rely exclusively upon payphones for their access to the telecommunications network. The 10¢ local coin rate either considerably decreases or eliminates the economic incentive to provide any payphone service to these areas. This depressed economic incentive causes locations that need payphone service the most to be severely under served.

Moreover, there is little or no correlation between many of South Carolina's designated 10¢ local coin areas and the presence of low income payphone patrons. Many mobile home communities in South Carolina are inhabited by retirees who are easily able to pay 25¢ for a local call. City sidewalks are often frequented by shoppers and businesspeople. In short, the goal of providing lower-cost local coin calls to the economically disadvantaged is not always served.

Finally, the availability of flat-rated 10¢ local calling encourages single callers to camp for long periods. The frequent monopolization of these 10¢ locations further reduces

the already depressed availability of payphone services in these areas.

A nationwide local coin rate of 40¢ would serve to substantially increase the availability of payphone services in all locations. While this ready access is certainly valuable to the public at large, it is acutely necessary for those who are economically less fortunate.

B. The Commission Should Order the Payment of Compensation for All Dial-around Calls, Whether Intrastate or Interstate in Nature.

In Section III.A.2.a. of the NPRM, the Commission requested comments on its tentative conclusion that IXCs should be required to pay compensation to IPPs for each access code, subscriber 800, other toll-free, and debit card call, whether intrastate or interstate in destination. The SCPCA strongly supports this tentative conclusion.

In 1993, the S.C. Commission ruled that the payment by IXCs to IPPs of dial-around compensation was in the public interest.² In ordering the payment of interstate compensation at the rate of \$3.00 per month per IPP access line, the S.C. Commission found . . . that a per call compensation mechanism would be most accurate . . .³ However, acknowledging that such a mechanism did not exist at that time, the S.C. Commission encouraged the parties to expedite the development of a per-call technology.⁴

In requiring dial-around compensation, the S.C. Commission declined to decide

²S.C. Commission Order No. 93-468, Docket No. 92-572-C.

³*Id.*, p. 5.

⁴*Id.*, p. 6.

whether IXCs should pay compensation for 800 subscriber calls, finding that decision to be unnecessary where it was ordering compensation on a per-phone basis.⁵ The S.C. Commission, South Carolina IPPs and the public would all benefit from a ruling by the Commission requiring the payment of intrastate per-call compensation. Moreover, such a ruling would help to accomplish the goal of administrative economy by avoiding the need for a South Carolina proceeding on the identical issue.

C. LECs Should be Required to Transfer the Value of Existing Payphone Location Contracts to their Newly Unregulated Activities.

In the NPRM, the Commission tentatively concluded that it should treat incumbent LEC payphone assets as unregulated, detariffed CPE. In Section III.B.2.b. of the NPRM, it sought comments on the specific payphone assets to be transferred to the LEC's unregulated activities. One group of payphone assets not discussed by the Commission that must be included in any transfer are the LEC contracts with location owners for placement of LEC payphones.

When an independent payphone business is purchased, the present value of each payphone location agreement is reflected in the purchase price. The contract length and historic cash flow of each location must be carefully considered. The existence of strong contractual relationships that can be assigned to the purchaser will always increase the purchase price well beyond the mere replacement value of the equipment.

⁵Id.

The RBOCs have known for some time that their payphone operations would soon be separated from their monopoly services, possibly into a distinct separate subsidiary. The SCPCA is informed that BellSouth has used this preparatory period to renegotiate existing location agreements for significantly longer durations. The RBOCs will expect to assign these valuable contracts to their newly deregulated payphone operations. When this occurs, the substantial value of these contracts must be accurately taken into account. The acquisition of these contracts by the deregulated LEC payphone entities must be properly amortized as a capital cost. Only in this way can the Commission ensure going-forward that LECs are not directly or indirectly subsidizing their payphone service with monopoly revenues from their exchange service or exchange access operations.

D. The Commission Must Allow IPPs and Location Providers to Freely Choose Their Local and IntraLATA Carrier, Even if State Restrictions Prohibit that Selection.

In Section III.E. of the NPRM, the Commission tentatively concluded that:

All PSPs, whether LECs or PPOs, should be given [the] right to negotiate with location providers concerning the intraLATA carrier.

The Commission sought comment on this general conclusion.

In South Carolina, existing state rules require the IPP to route all local and intraLATA 0+ and 0- calls to the LEC. Because of this restriction, IPPs and their location providers are prohibited from earning revenues on these calls, unless the LEC voluntarily chooses to pay the

IPP a percentage of the revenues that it earns.

This arrangement places the IPP at a severe competitive disadvantage in the competition to locations, since it cannot offer a percentage of these 0+ and 0- revenues to the location owner as part of a commission. LECs have fought successfully in South Carolina to maintain the competitive edge created by this restriction on routing 0+ and 0- local and intraLATA calls.

The Commission acknowledges that some states require competitive payphones to route 0+ and 0- intraLATA calls to the LEC. In its rulemaking on this point, the Commission must clearly rule that it is preempting these contrary state restrictions. Since the routing of these calls will be done within the payphone instrument, the Commission's ruling will result in no cost to the LEC. In addition, such a ruling will allow IPPs to freely choose their intraLATA operator service provider based upon a combination of quality of service, and sharing of revenues earned through use of the IPP's payphone investment.

With the advent of the local competition contemplated by the 1996 Act, this right to choose the operator service provider should also be extended for local operator services. Payphone users who wish to make a local call without depositing coinage must make an operator service call. These calls are identical in character to intraLATA and interLATA operator service calls. The IPP should be free to negotiate with the location provider to choose any operator service provider who is fit, willing and able to provide these local operator service calls.

E. Application of Commission Rules to RBOCs and Independent LECs, Including Rural Telephone Companies

Twenty-six LECs provide local telephone service in South Carolina. The RBOC is BellSouth. GTE South and United Telephone Company of the Carolinas are independent LECs, but fall outside the 1996 Act's definition of Rural Telephone Company. The remaining twenty-three South Carolina LECs appear to fall within the new statutory definition of Rural Telephone Company. Some of these small LECs compete fiercely with IPPs for payphone locations.

Independent LECs in South Carolina frequently subsidize their payphone services directly or indirectly with revenues earned from their exchange service operations or exchange access operations. As evidence of this fact, fully twenty-one of South Carolina's independent LECs continue to voluntarily charge only 10¢ for local coin calls.⁶ Even the most conservative evidence shows that a payphone provider's cost for a local coin call far exceeds this figure. This entrenched LEC practice of cross-subsidizing payphone operations with monopoly revenues makes it essential for the Commission to apply the same non-structural safeguards to these independent LECs that it develops for the Bell Operating Companies.

The Commission must also grant IPPs the right to select their intraLATA operator service provider in these independent LEC areas. Throughout South Carolina currently, IPPs

⁶ Until recently, IPPs were required to follow suit, since their charges for local coin calls were restricted to no more than that of the LEC. This restriction was changed on June 10, 1996, in Docket No. 96-070-C, Order No. 96-401. In that order the S.C. Commission ruled that IPPs may now uniformly charge up to the current BellSouth rate, even in areas where the LEC is only tariffed to charge 10¢.

are prohibited from making this choice. The reasons that call for granting this choice to IPPs operating in RBOC areas apply with equal force to IPPs operating in independent LEC areas. Moreover, many independent LECs in South Carolina do not directly provide any intraLATA service. These LECs operate as access providers only, contracting with BellSouth to provide the intraLATA carriage and operator services. Thus, a decision by an IPP to send intraLATA calls to a carrier other than an access provider LEC would result in no difference in revenue earned by that LEC.

IV. Conclusion

In conclusion, the SCPCA respectfully requests that the Commission adopt each of the proposals set forth herein.

Respectfully submitted,


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